

Atty. Dkt. No. 023727-1701

**REMARKS**

Applicant thanks the Examiner for the telephonic interview on August 30, 2004. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-10, 12, 25, 26, 29, and 30 are now pending in this application.

The claims are amended herein to specifically indicated that the movement between sections of the container that are absorbed by the deflectable pin, or deflectable member is compression movement, i.e., movement of the sections toward each other. Such compression movement can occur, for example, by compression of a gasket between the sections due to dropping the container.

The comments presented below point out how the cited references do not describe or suggest deflectable components as specified in the present claims for use with container latch systems, in which the deflectable component absorbs compression movement between the container sections. In order to present the amendments in context, Applicant's comments below include the discussion adapted from the prior submission.

**Rejections under 38 U.S.C. 102(b)**

The Examiner rejected claims 1, 4, 5, and 25 under 35 USC 102(b) as allegedly being anticipated by Jacobs (US Patent 4,111,476), asserting that the deflectable pin is transverse bar 42. Applicant respectfully traverses this rejection.

Atty. Dkt. No. 023727-1701

As discussed in Applicant's previous submission, Applicant respectfully requests that the Examiner reconsider the disclosure of Jacobs as it relates to the present claims. In particular, transverse bar 42 is part of loop 38. Loop 38, including transverse bar 42 constitutes a rigid, pivoting loop.

In contrast, present claim 1 (similarly for claim 25) specifies that the claimed latch system includes "a deflectable pin" ... "configured to absorb relative compression movement between the first section and the second section". Transverse bar 42 simply does not satisfy this requirement. First, transverse bar 42 is just the transverse portion of loop 38. Second, loop 38, including transverse bar 42 is not "configured to absorb relative compression movement between the first section and the second section" of the container. Applicant respectfully submits that the description contains no suggestion of such a characteristic.

If the Examiner is nonetheless minded to maintain this rejection, Applicant respectfully requests that the Examiner explain how (1) transverse bar 42 constitutes a "pin" in view of the common understanding of that term; and (2) how loop 38, including transverse bar 42 is "configured to configured to absorb relative compression movement between the first section and the second section" of the container.

The Examiner also rejected claims 6-8, 12, and 26 under 35 USC 102(b) as allegedly being anticipated by Sebok (US Patent 2,626,010). The Examiner asserted that Sebok discloses a latch system that includes a latch pin (the circular portion of link 13), a deflectable member (handle link 14) mounted in a latch (hasp 15, 16, and spring roll 17) with the latch pivotally coupled to the latch pin that that the deflectable member is positioned between the latch pin and the latch, and the deflectable member is configured to absorb relative movement between the first section and the second section. Applicant respectfully traverses this rejection.

Applicant appreciates the Examiner's explanation of the rejection, but respectfully requests that the Examiner reconsider the rejection in view of the following comments, as those comments demonstrate why Sebock cannot anticipate the present claims.

Atty. Dkt. No. 023727-1701

In particular considering claim 6 (from which claims 7 and 8 depend) and claim 26, the present claims specify that the latch pin is mounted in the first section of the container, and the deflectable member is between the latch pin and the latch. For example, the deflectable member can be a resilient bushing around the pin, or can be a leaf-type spring located between the pin and the latch.

In contrast, Sebok describes an air cleaner that has a clamping device in which there is nothing between the pin and the "latch". In Sebok, what can be referred to as a latch includes handle link 14 and hasp member 15 that includes the spring roll 17. Thus, there is no deflectable member positioned between the latch pin and the latch. In addition, the Examiner had asserted that the handle link 14 constituted a "deflectable member". However, the description in Sebok shows that the handle link is moveable to close the clamping device, but it has no "deflectable" property, and cannot function to "absorb relative compression movement between the first section and the second section". Instead, handle link 14 provides a "cam action" in the clamping device to exert pressure on the top of the air cleaner canister.

Therefore, the Sebok clamping device cannot anticipate present claims 6 or 25 (or claims dependent therefrom).

Applicant respectfully requests that the Examiner reconsider and withdraw the rejections for alleged anticipation of the claims.

#### Rejections under 35 USC 103(a)

The Examiner rejected claim 2 under 35 USC 103(a) as allegedly being unpatentable over Jacobs, and rejected claims 9, 29, and 30 under 35 USC 103(a) as allegedly being unpatentable over Sebok. Applicant respectfully traverses these rejections.

Atty. Dkt. No. 023727-1701

Distinctions between Jacobs and Sebok, and the present claim were discussed above. In particular, the distinctions between present claim 1 and the Jacobs description means that Jacobs cannot suggest a latch system as presently claimed. Therefore, Jacobs also cannot suggest any particular arrangement of the present latch system, such as that specified in claim 2.

Similarly, Sebok does not describe or suggest a latch system as in present claim 6 or a container as in present claim 26. Consequently, Sebok does not suggest any of dependent claims 9, 29 and 30.

Further, in accordance with the comments presented in the prior amendment, Sebok does not suggest the use of a deflectable bushing around the latch pin. Notably, Sebok is not primarily describing a latch system, but instead describes an air filter, of which the clamping system is a part. Therefore, there is nothing in Sebok to suggest the use of a deflectable bushing, e.g., rubber bushing, around the pin, especially in view of the fact that tension was already provided in the clamping system by inclusion of the spring hasp 15. Further, the Examiner has presented no evidence or even reasoning on how a deflectable bushing would be advantageous in that application. Indeed, as previously pointed out, such a bushing would be more likely to be unsuitable for the described air cleaner.

Still further, in connection with claim 29, the Examiner has provided no evidence or reasoning on why durability and easy of moldability of a plastic material, or resiliency and easy moldability of rubber would be useful in the Sebok device such that it might be considered a matter of design choice. In connection with claim 30, the Examiner has likewise not provided any evidence or reasoning on how any metal resilient member would be incorporated in the Sebok device, and how great strength and durability would be advantageous.

In summary, Applicant respectfully submits that misinterpretation of the disclosure of Jacobs and Sebok has unfortunately led to the present rejections. Therefore, in view of the discussion above, Applicants respectfully requests that the Examiner reconsider and withdraw the rejections for alleged obviousness of the claimed invention.

Atty. Dkt. No. 023727-1701

Applicants believes that the present application is now in condition for allowance.  
Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

No fee is believed due in connection with this communication. However, if any fee is due, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date: September 7, 2004By 

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6714  
Facsimile: (858) 792-6773

Wesley B. Ames  
Attorney for Applicant  
Registration No. 40,893